

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 828

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Janice E. Arnold-Jones

AN ACT

RELATING TO TAXATION; MAKING A TECHNICAL CORRECTION TO SECTION 7-1-4 NMSA 1978 (BEING LAWS 1965, CHAPTER 248, SECTION 10, AS AMENDED) TO CLARIFY THAT CERTAIN STATUTES OF LIMITATIONS SHALL BE SUSPENDED WITH RESPECT TO TAX LIABILITY INVESTIGATIONS IF A PERSON FILES AN ACTION WITH A COURT TO QUASH A SUBPOENA OR SUMMONS ISSUED BY THE SECRETARY OF TAXATION AND REVENUE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-4 NMSA 1978 (being Laws 1965, Chapter 248, Section 10, as amended) is amended to read:

"7-1-4. INVESTIGATIVE AUTHORITY AND POWERS.--

A. For the purpose of establishing or determining the extent of the liability of any person for any tax, for the purpose of collecting any tax, for the purpose of enforcing any statute administered under the provisions of the Tax

underscored material = new  
[bracketed material] = delete

1 Administration Act or for the purpose of investigating possible  
2 criminal violations of the revenue laws of this state,  
3 including fraud or other crimes that may affect the taxes due  
4 to the state, the secretary or the secretary's delegate is  
5 authorized to examine equipment and to examine and require the  
6 production of any pertinent records, books, information or  
7 evidence, to require the presence of any person and to require  
8 that person to testify under oath concerning the subject matter  
9 of the inquiry and to make a permanent record of the  
10 proceedings.

11 B. As a means for accomplishing the matters  
12 referred to in Subsection A of this section, the secretary is  
13 hereby invested with the power to issue subpoenas and  
14 summonses. In no case shall a subpoena or summons be made  
15 returnable less than ten days from the date of service.

16 C. Any subpoena or summons issued by the secretary  
17 shall state with reasonable certainty the nature of the  
18 evidence required to be produced, the time and place of the  
19 hearing, the nature of the inquiry or investigation and the  
20 consequences of failure to obey the subpoena or summons; shall  
21 bear the seal of the department; and shall be attested by the  
22 secretary.

23 D. After service of a subpoena or summons upon the  
24 person, if any person neglects or refuses to appear in response  
25 to the summons or neglects or refuses to produce records or

.161367.1

underscoring material = new  
[bracketed material] = delete

1 other evidence or to allow the inspection of equipment in  
2 response to the subpoena or neglects or refuses to give  
3 testimony as required, the department may invoke the aid of the  
4 court in the enforcement of the subpoena or summons. In  
5 appropriate cases, the court shall issue its order requiring  
6 the person to appear and testify or produce books or records  
7 and may, upon failure of the person to comply with the order,  
8 punish the person for contempt.

9 E. If a person, the extent of whose tax liability  
10 is being established, or that person's agent, nominee or other  
11 person acting under the direction or control of that person,  
12 files an action with the court to quash a subpoena or summons  
13 issued by ~~[that]~~ the secretary or the court pursuant to this  
14 section, the running of the period of limitations pursuant to  
15 Sections 7-1-18 and 7-1-19 NMSA 1978 or Section 30-1-8 NMSA  
16 1978 with respect to the tax liability under investigation  
17 shall be suspended for the period during which a proceeding and  
18 related appeals regarding the enforcement of the subpoena or  
19 summons is pending."